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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/551,321

09/22/2005

Karl Thiele

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01/15/2009

PHILIPS INTELLECTUAL PROPERTY & STANDARDS

P.O. BOX 3001

BRIARCLIFF MANOR, NY 10510

EXAMINER

ROSENAU, DEREK JOHN

ART UNIT

PAPER NUMBER

2834

MAIL DATE

DELIVERY MODE

01/15/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte KARL THIELE

Application 10/551,321
Technology Center 2800

Mailed: January 15, 2009

Before KAREN SWEENEY, *Paralegal Specialist*.

SWEENEY, *Paralegal Specialist*.

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received at the Board of Patent Appeals and Interferences (BPAI) on April 12, 2008. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner. The matter requiring attention prior to docketing is identified below.

APPEAL BRIEF

Summary Of Claimed Subject Matter

On September 19, 2007, Appellant filed an Appeal Brief. A review of the file reveals that the “Summary of Claimed Subject Matter” does not map each of the dependent claims to the Specification. Further, regarding claims 5, 7, 18, 21, 23, 34, 39, 41, 52, 60, 62 and 73 Appellant must provide support for the “means for” language, as set forth in 37 C.F.R. § 41.37(c)(1)(v) which states:

(v) *Summary of claimed subject matter.* A concise explanation of the subject matter defined in each of the independent claims involved in the appeal, which shall refer to the specification by page and line number, and to the drawing, if any, by reference characters. For each independent claim involved in the appeal and for each dependent claim argued separately under the provisions of paragraph (c)(1)(vii) of this section, every means plus function and step plus function as permitted by 35 U.S.C. 112, sixth paragraph, must be identified and the structure, material, or acts described in the specification as corresponding to each claimed function must be set forth with reference to the specification by page and line number, and to the drawing, if any, by reference characters.

Proper correction of the Appeal Brief is required.

When the Office holds the brief to be defective solely due to appellant’s failure to provided a summary of the claimed subject matter as required by 37 C.F.R. § 41.37(c)(1)(v), an entire new brief need not, and should not be filed. Rather, a paper providing a summary of the claimed subject matter as required by 37 C.F.R. § 41.37(c)(1)(v) will suffice. Failure to timely respond to the Office’s requirement will result in dismissal of the appeal. See MPEP § 1215.04 and § 711.02(b).

Application 10/551,321

Accordingly, it is ORDERED that the application is returned to the Examiner:

- 1) to hold the Appeal Brief filed on September 19, 2007, defective;
- 2) notify Appellant to file a paper providing a Summary of the Claimed Subject Matter as required by 37 C.F.R. § 41.37(c)(1)(v), and properly addressing claims 5, 7, 18, 21, 23, 34, 39, 41, 52, 60, 62 and 73;
- 3) consider the Paper, and if necessary vacate the Examiner's Answer and supply a new Examiner's Answer in response to the Summary of the Claimed Subject matter as required by 37 C.F.R. § 41.37 (c)(1)(v); and
- 4) for such further action as may be deemed appropriate.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

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